

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21038**

Application 29890 of     **Fred W. Wilkinson**  
                                 **P.O. Box 1983**  
                                 **Placerville, CA 95667**

filed on **January 22, 1991**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water  
Source

Tributary to

**Perry Creek**

**Middle Fork Cosumnes River**

within the County of **El Dorado**

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Projected Section	Township	Range	Base and Meridian
<b>POD; North 341,300 feet and East 2,387,375 feet</b>	<b>NW¼ of NW¼</b>	<b>34</b>	<b>9N</b>	<b>12E</b>	<b>MD</b>

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
<b>Fire Protection, Fish and Wildlife Enhancement / Protection, Recreation</b>	<b>NW¼ of NW ¼</b>	<b>34</b>	<b>9N</b>	<b>12E</b>	<b>MD</b>	

The place of use is located on assessor's parcel number 095-090-131 and is shown on the map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 42 acre-feet per annum to be collected from December 15 of each year to April 15 of the succeeding year.

(0000005C)

6. Complete application of the water to the authorized use shall be made by December 31, 2006.

(00000009)

7. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

(0000040)

8. This permit is subject to the continuing authority of the SWRCB to reduce the amount of water named in the permit upon a finding by the SWRCB that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the SWRCB without prior notice to the owner and an opportunity for hearing.

(0000042)

9. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir, which is not authorized for appropriation under this permit, can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence, which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed single reservoir and dam built.

(0000043B)

10. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to SWRCB, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage reading on or about October 1 of each year. Such readings shall be supplied to the SWRCB with the next progress report submitted to the SWRCB by permittee.

The SWRCB may require the release of water, which cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow Rancho Murieta Community Services District and all successors in interest, or a designated representative, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir.

(0000047)

11. Whenever the prior storage rights of Rancho Murieta Community Services District under License 6238 and Permit 16762 issued pursuant to Applications 16142 & 23416 respectively are not satisfied by April 1 of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir below the previous October 1 staff gage reading unless permittee has withdrawn water from the reservoir for consumptive purposes since October 1.

(0000051)

12. For the protection of fish and wildlife, permittee shall bypass a minimum of 1 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount.

(0000060)

13. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the SWRCB, which is capable of measuring the bypass flow(s) required by the conditions of this permit. Said measuring device shall be properly maintained.

(0000062)

14. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Cosumnes River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of the SWRCB made after notice to interested parties and opportunity for hearing.

(0000090)

15. This permit is specifically subject to the prior right of Rancho Murieta Community Services District under appropriation issued pursuant to Applications 1838, 2296, 16142, 23416.

(000000T)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD  
ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- (A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
- (D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
- (E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for

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purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

**Dated: June 7, 2000**

**STATE WATER RESOURCES CONTROL BOARD**

**ORIGINAL SIGNED BY  
GERALD E. JOHNS**

**FO** Chief, Division of Water Rights

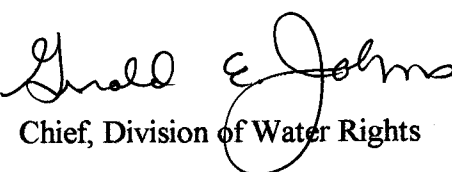
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**Dated: June 7, 2000**

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**FOR** Chief, Division of Water Rights